

REMARKS

Claims 1-25 were pending in the Application. Applicants cancelled claims 9 and 17 without prejudice or disclaimer. Hence, claims 1-8, 10-16 and 18-25 are pending.

Claims 1-18 are rejected under 35 U.S.C. §101. Claims 1-25 are rejected under 35 U.S.C. §102(e). Applicants address these rejections in connection with the pending claims below.

Applicants thank Examiner Trotter for discussing the present Office Action with Applicants on numerous occasions.

I. REJECTIONS UNDER 35 U.S.C. §101:

The Examiner has rejected claims 1-8, 10-16 and 18 under 35 U.S.C. §101 as being allegedly directed to non-statutory subject matter. Office Action (6/23/2009), page 3. In particular, the Examiner has rejected claims 1-8, 10-16 and 18 under 35 U.S.C. §101 in light of *In re Bilski*. *Id.* The Examiner states that the process claims (1-8, 10-16 and 18) must (1) be tied to a particular machine or apparatus or (2) transform the underlying subject matter (such as an article or material) into a different state or thing. *Id.* The Examiner indicated that by adding the phrase "through a lender computer" prior to the phrase "authorizing by the lender" in claim 1 that claim 1 would satisfy the test laid out in *In re Bilski*. As indicated above, Applicants amended claim 1 accordingly. Therefore, process claims 1-8, 10-16 and 18 satisfy the test laid out in *In re Bilski* and are directed to statutory subject matter.

Claim 1 was amended to address the issue raised by the Examiner in light of *In re Bilski* and was not amended to overcome prior art. Hence, no prosecution history estoppel arises from this amendment to claim 1. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, this amendment made to claim 1 was not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such an amendment. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

II. REJECTIONS UNDER 35 U.S.C. §102(e):

The Examiner has rejected claims 1-8, 10-16 and 18-25 under 35 U.S.C. §102(e) as being anticipated by Hall et al. (U.S. Patent No. 7,085,735) (hereinafter "Hall"). After several discussions with Examiner Trotter regarding the rejection of the claims in light of Hall, Applicants amended claims 1-4, 6-8, 11-16, 19-21 and 23 to include subject matter recommended by Examiner Trotter to expedite the issuance of claims 1-8, 10-16 and 18-25. These amendments were not made in response to the Examiner's cited art. Furthermore, Applicants are not conceding in this application that cancelled claims 9 and 17 are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the subject matter contained in present claims 1-8, 10-16 and 18-25. Applicants respectfully reserve the right to pursue these and other claims (e.g., originally filed claims 1-25) in one or more continuation patent applications.

III. CONCLUSION:

As a result of the foregoing, it is asserted by Applicants that claims 1-8, 10-16 and 18-25 in the Application are in condition for allowance, and respectfully request an allowance of such claims. Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

WINSTEAD P.C.

Attorneys for Applicants

By: 

Michael P. Adams
Reg. No. 34,763
Robert A. Voigt, Jr.
Reg. No. 47,159

P.O. Box 50784
Dallas, Texas 75201
(512) 370-2832

Austin_1\559878\1
41722-P001US 3/3/2009